

DEPARTMENT OF FOOD AND AGRICULTURE

INITIAL STATEMENT OF REASONS

Hearing Date:

No hearing is scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

Subject Matter of Proposed Regulations: Hours of Inspection at Salesyards

Sections Affected: Sections 899.1 and 899.2

Specific Purpose of Each Adoption, Amendment, or Repeal

The Food and Agricultural Code Section 21051 requires that cattle shall be inspected prior to release or sale from a public stockyard, public salesyard, or public or private cattle sales market.

Existing Section 899.1 limits inspections at salesyards to 1600 hours (4:00 p.m.) each sale day. This proposed action would allow the relatively few dairymen or cattlemen who cannot arrive at the salesyard prior to 1600 hours (4:00 p.m.) due to unforeseen circumstances to notify the salesyard of their late arrival.

This proposal adds section 899.2 to allow the salesyard management to arrange for an inspector to stay for no more than one extra hour. This would allow for an inspection of these late arrivals so that the cattle could be sold on that sale day.

Factual Basis

The Department of Food and Agriculture (Department), Bureau of Livestock Identification's brand registration and inspection program protects cattle owners in California against loss of animals by theft, straying or misappropriation. The branch's program consists of registration of livestock brands; inspection of cattle for lawful possession prior to transportation, sale or slaughter, and recording of the information obtained by such inspections; and assisting local law enforcement with investigations and prosecutions involving cattle theft. The brand registration and inspection program is financed, in its entirety, through brand registration and inspection fees paid by the livestock owners.

Food and Agricultural Code section 21051 requires that cattle shall be inspected prior to release or sale from a public stockyard, public salesyard, or public or private cattle sales market. Current regulations limit inspections at salesyards to 1600 hours (4:00 p.m.) each sale day. For the vast majority of the people who sell cattle at public salesyards, the existing hours of operation are satisfactory.

However, the Department received a petition, dated February 2, 1999, from Nancy Modgling, Liberty Livestock Auction, Chino, California, requesting a change to section 899.1. She believes this section of the regulations is outdated, and is unduly restrictive upon business practices.

Ms. Modgling states that the sales at her livestock auction do not begin until 1800 hours (6:00 p.m.). Under existing regulations, inspections can be made only between 1400 hours (2:00 p.m.) and 1600 hours (4:00 p.m.) She believes that there is a need for extended hours to accommodate dairymen who may need the extra time due to a breakdown on the road or similar emergencies, or to accommodate those sellers who are not full-time dairymen or ranchers and cannot arrive at the salesyard prior to 1600 hours (4:00 p.m.) because they have other jobs.

Included with the petition were letters of support to amend the regulations from the following businesses: Dairymen's/Cattlemen's Beef Auction, Los Banos Livestock Market, Modesto Livestock Commission Company, Inc., Western Stockman's Market, Lancaster Sales Yard, Shasta Livestock Auction Yard, Inc., Petaluma Livestock Auction Yard, Inc., Oakdale Livestock Auction, California Livestock Auction, Chino Livestock Market, Roseville Livestock Auction, Buellton Livestock Market, Templeton Livestock Market, Overland Stockyard, Carl Johnson Livestock Auction, Ukiah Livestock Exchange, Modoc Auction Yard, and Orland Livestock Commission Yard.

Therefore, the Department believed that there was a demonstrated need to amend the regulations as follows:

Section 899.1. Hours of Inspection at Salesyards.

In the enforcement of Division 10, Chapter 6, Article 1 of the Food and Agricultural Code, licensed and posted public auction salesyards shall only receive brand inspection until 1600 hours (4:00 p.m.) each sale day. Cattle arriving too late to receive brand inspection shall not be sold at auction on this sale day. However, if a salesyard requests an inspector to stay past 1600 hours (4:00 p.m.) to inspect cattle that are on their way to the salesyard, the inspector must stay for a maximum of one (1) hour. The salesyard will be responsible for the cost of the inspector's extra time at the overtime rate, with a minimum of one (1) hour.

The Department is correcting a typographical error in this section. This section also includes new language to designate that upon request by the salesyard operator, the inspector is only required to stay one extra hour, and the salesyard will be responsible for any extra costs. These procedures were established based upon the petition received by the Department from a salesyard operator, and the letters of support for this amendment.

Section 899.2. Request for Change of Inspection Time.

A salesyard with established hours of sale time beginning after 1600 hours (4:00 p.m.) may request to have inspection between 1600 hours (4:00 p.m.) and 1800 hours (6:00 p.m.) and in no case will inspection be made after sunset. The request must be made to the Bureau of Livestock Identification at least sixty (60) days prior to the effective date of the change of inspection times.

This section is added for consistency and clarity purposes. With the amendment to section 899.1, the Department must add section 899.2 to clarify that the Bureau of Livestock Identification must be contacted by the salesyard to request a change to the inspection times.

This proposal is consistent with the United States Department of Agriculture, Packers, and Stockyards Act of 1921, section 201.92, which provides that all persons having custody at a stockyard of livestock subject to inspection shall make it available to the authorized inspection agency authorized under the Act in such a manner as to preserve the identity of the consignment until inspection has been completed. Agencies authorized to conduct such inspection shall perform the work as soon after receipt of the livestock as practical and as rapidly as is reasonably possible in order to prevent delay in marketing, shrinkage in weight, or other avoidable losses. Inspectors may only inspect livestock at licensed public salesyards and licensed private cattle sales markets on sale days approved by the Department's Bureau of Livestock Identification. All cattle owners holding a dispersal sale of cattle shall be responsible for notification to the Bureau of such sale and request inspection at least one week prior to the date of the sale, whereupon the inspector will be assigned to such sale.

Underlying Data

Petition dated February 2, 1999 from Nancy Modgling, Liberty Livestock Auction.
Transcript of the March 25, 1999 Hearing.

Business Impact

This regulation will not have a significant adverse economic impact on businesses. It enables businesses to engage in commerce in this State by allowing a one-hour extension to the inspection timeframe so that the livestock can be sold on the scheduled sale day to prevent delay in marketing.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Department of Food and Agriculture would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed regulations.